

REMARKS

Claims 1-5, 7, 9-10, 12-13, and 16-18 are rejected under 35 U.S.C. §103 as unpatentable over a combination of six separate references – namely Peifer, Oba, Zaitzu, Peddicord, Surwit, and David.

First, it is noted that a combination of six separate references is guided by a hindsight knowledge of Applicants' patent claims. As recently observed by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 127 S.Ct. 1727 (2007) at 1742:

“A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. See *Graham*, 383 U.S., at 36, 86 S.Ct. 684 (warning against a “temptation to read into the prior art the teachings of the invention in issue” and instructing courts to “ ‘guard against slipping into the use of hindsight’ ” (quoting *Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F.2d 406, 412 (C.A. 6 1964))).

Secondly, the Zaitzu reference cited for real-time intervention with a control code is not prior art because Applicants priority date is November 22, 2000 and the filing date of Zaitzu is May 25, 2001, well after the priority date. A Certified Translation of the Priority Document is enclosed, and Applicants hereby claim the benefit of their priority date.

Claim 1 distinguishes over the five references Peifer, Oba, Peddicord, Surwit, and David in combination because none of those references suggest the claim language of: 1) generating a control code for the selected imaging instrument when a control instruction is entered to enable active intervention in real-time by the central operator during a patient's examination; and 2) wherein the data interface automatically forwards that control code to the selected imaging instrument. For the control code real-time active intervention the Examiner cites Zaitzu which is not a prior art reference. Furthermore, for the control code the Examiner cites Peifer

column 3, line 66 to column 4, line 13. But here Peifer only discloses providing an address to which data is to be sent from a central unit to a remote unit. In other words, an address of the remote unit to which data is to be sent allows the data to be routed to that remote unit. But the control code is not an address. Rather, the control code in the words of claim 1 enables active intervention in real-time and this control code is forwarded to the selected imaging instrument to allow the active intervention in real-time. This is clearly not an address for routing data to a particular location but is a control code which permits intervention into the machine for real-time active intervention.

It is further noted that claim 1 is limited to a computerized medical imaging examination management system controlling medical examination imaging instruments. This is significant because the control code is not an address but rather a code that enables the person situated at the remote location from the imaging instrument to remotely control the imaging instrument. To do this, the doctor enters his commands at the input unit where they are converted into the control code which is sent to the medical diagnosis instrument to control its actions. The control code is important for controlling such imaging instruments since such a control code has a high sophistication relative to the non-imaging type data submissions disclosed in the prior art being cited herein.

For the above two reasons singly or in combination, claim 1 is allowable over the combination of the above cited five references.

Dependent claims 2-5, 7, 9 and 10 distinguish at least for the reasons noted with respect to claim 1.

Of particular importance is dependent claim 7 indicating that the system is configured to replicate an operating console of the imaging instrument in response to

the control instruction. For this claim, the Examiner cites Peifer column 1, lines 47-59. At that portion of Peifer it is only disclosed that parameters measured at the patient, such as the patient vital signs, are stored in a database and then sent to the main control unit. There is no disclosure of any system configured to replicate an operating console of an imaging instrument in response to a control instruction. Dependent claim 7 is thus allowable for these reasons in addition to the reasons claim 1 is allowable.

Independent claim 12 distinguishes in a fashion similar to the reasons noted above for claim 1. Claim 12 recites: 1) the control code for the selected imaging instrument; and 2) forwarding of that control code in real-time in the central computer to the selected imaging instrument, said control code allowing active intervention by the central operator in real-time during a patient's examination. Thus this claim also distinguishes.


Dependent claims 13, 16-18, distinguish at least for the reasons noted with respect to claim 12.

An additional dependent claim 21 is added which distinguishes by reciting the replication of an operating console or the imaging instrument, similar to previous claim 7 discussed above. Thus this claim is allowable for the reasons noted above with respect to claim 7, and does not raise new issues precluding entry of this Amendment in view of the similarity to previous dependent claim 7.

Allowance of the application is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required, or to credit any overpayment to account No. 501519.

Respectfully submitted,

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